

BEFORE THE TALBOT COUNTY BOARD OF APPEALS

IN THE MATTER OF	*	CASE NO. SPEX-22-2
25876 ROYAL OAK, LLC	*	APPLICATION FOR EXPANSION OF
	*	NONCONFORMING USE
	*	
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The Board of Appeals (the “Board”) held a hearing on October 24, 2022 in the Bradley Meeting Room, Court House, South Wing at 11 N. Washington Street, Easton, Maryland to consider the application of 25876 Royal Oak, LLC (the “Applicant”). The Applicant requested expansion of an existing nonconforming use for a commercial hotel on the property located at 25876 Royal Oak Road, Royal Oak, Maryland. Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Board Members Paul Shortall, Jeff Adelman, Zakary Krebeck, and Board Attorney Lance M. Young were present. Planner Bryce Yelton appeared on behalf of the County.

STATEMENT OF THE CASE

The Applicant requested expansion of the existing nonconforming use for the property known as “The Oaks,” a commercial hotel property located at 25876 Royal Oak Road, Royal Oak, Maryland. The use is nonconforming because the property is zoned Village Hamlet (VH) and hotels are not a permitted use in that zoning classification. The Oaks has operated as a hotel for almost 120 years. The Applicant seeks to construct three cottages on the property. Each cottage will accommodate one overnight guest room. The Board must approve any major expansion of the hotel because of property’s nonconforming status.

The Board has previously approved three other expansions of the use on the property. These include Appeal No. 762 in 1989 (expand hotel use), Appeal No. 982 in 1996 (expansion of inn and guest cottages, pool, pool house, and dining facilities), and Appeal No. 1300 in 2003 (special events and banquet room, indoor entertainment area).

The Talbot County Planning Commission unanimously found that the Applicant’s proposal is consistent with the Comprehensive Plan.

SUMMARY OF TESTIMONY

The Applicant was represented by attorney Willard C. Parker, II, of the law firm Parker, Counts, Melton and Goodman, LLC. Mr. Parker provided a historical account of the property. The use of the property as a hotel began in 1901. The hotel use has continued without interruption for 120 years. The hotel once operated with at least 33 rooms. Twenty of the rooms, which were detached from the primary dwelling, fell into disrepair and were torn down over two years ago. The hotel currently operates with 13 rooms.

Clifford E. Meredith, a real estate broker, and owner of Meredith Fine Properties, provided expert testimony regarding the potential impact of the Applicant's proposal on neighboring properties. Mr. Meredith has been a broker in Talbot County for 42 years and is familiar with The Oaks. In his opinion, the addition of the three cottages will have no adverse or detrimental impact on surrounding properties.

Richard A. Warner is the project manager overseeing modifications of The Oaks property, including the addition of the three proposed cottages. Mr. Warner testified that the total measured gross floor area, for structures on the property, is 32,653 square feet. The newly constructed cottages will measure 704 square feet each with a total expansion of 2,112 square feet. The expansion is below the threshold permitted under the ordinance for expansion of structures.

Mr. Warner testified that one of the current guest rooms in the hotel structure will be removed to accommodate a new elevator. Therefore, after the addition of three cottages, there will be a total of 15 guest rooms on the property.

Mr. Warner further testified that the proposed cottages will not create any nuisance to adjacent properties. The single room cottages will include maid service and trash will be maintained on site. It is not anticipated that the cottages will cause unusual noise or other kinds of nuisance pollution. Mr. Warner does not foresee any significant impact to vehicular traffic/access. The addition of the cottages will not adversely impact agricultural land across the road from the hotel property.

Brett Ewing, of Lane Engineering, provided expert testimony on behalf of the Applicant. Mr. Ewing is experienced in land use planning, development, and zoning regulation compliance. Mr. Ewing testified that the proposed modifications will be consistent with the County's comprehensive plan.

Mr. Ewing's testimony provided additional specificity of the project plans. The total lot coverage for each cottage will be 913 square feet each (with 704 square feet footprint). Additionally, the project modifications will demolish some existing impervious structures on the property, which will benefit stormwater runoff. After all construction is complete, there will be a net decrease of over 10,000 square feet of impervious surface. The property will be in compliance with lot coverage requirements for impervious surface.

The property will additionally be compliant with required setbacks, stormwater runoff requirements, and is exempt from Critical Area Buffer mitigation requirements because of its net reduction in impervious surface. The stormwater runoff design is multilayered with a design to flatten and stem the flow of runoff into State waters.

The project is also subject to minor site plan review. According to Mr. Ewing, there have been slight changes to the original site plan to save a historical large oak tree on the property. Mr. Ewing opined that the modifications are compatible with existing land uses and will minimize impacts on existing landscaping, limiting soil and tree removal.

Mr. Ewing further opined that adjacent land uses will not be adversely impacted. Planting and shrubbery are planned and will be consistent with existing landscaping. Mr. Ewing is confident that the project will be approved for public sewer connection.

The Applicant solicited comments from the State Highway Administration, which had no comment on the proposed modifications. The Applicant provided a letter from the St. Michaels Fire Department stating that it had no issue with the Application. There will be no change to vehicular access and, although there will be a reduction in parking spaces, the property will still provide adequate parking in compliance with the County ordinance.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The criteria for granting a major modification of a nonconforming use are set forth in the Talbot County Ordinance, § 190-48.3. The Board addresses the criteria as follows:

- A. *Applications shall be subject to the procedures and requirements of § 190-56 for Board of Appeals special exception applications.*

The Board finds that the Application satisfies the procedures and requirements of § 190-56. The Applicant has followed the general application and review procedures required for special exceptions.

- B. *Expansion of structures utilized for nonconforming uses shall be limited to no more than 20% of the gross floor area of the nonconforming use.*

The total measured gross floor area, for existing structures on the property, is 32,653 square feet. The newly constructed cottages will measure 704 square feet each with a total expansion of 2,112 square feet. The expansion is below the 20% threshold permitted under the ordinance for expansion of structures.

- C. *Expansion of areas of a nonconforming use not involving structures, such as outdoor parking and storage, shall be limited to no more than 20% of the site area existing on the date the use became nonconforming.*

The Applicant is reducing areas of nonconforming use that do not involve the addition of the cottages. Impervious parking areas will be reduced while still meeting the requisite number of parking required for the property under the County ordinance.

- D. *The Board of Appeals shall evaluate applications for expansion or modification of a nonconforming use applying the standards for special exceptions in § 190-56.2. The Board of Appeals shall consider the recommendation of the Planning Commission.*

The Talbot County Planning Commission reviewed the Application for a determination that the Application is consistent with the Comprehensive Plan. The Board finds that the

Application satisfies the standards set forth in § 190-56.2 (for special exceptions) as set forth below.

1. *The use will be consistent with the purposes and intent of the Talbot County Comprehensive Plan.*

The Talbot County Planning Commission made the determination that the use will be consistent with the purposes and intent of the Talbot County Comprehensive Plan. The Board accepts the Planning Commission's findings and conclusions and incorporates those conclusions herein.

2. *The use will comply with the standards of the zoning district in which it is located except as those standards may have been modified by the granting of a variance.*

The property is in the VH zoning district. It complies with the bulk standards for that district. A 2003 site plan approval certified lot coverage on site as legal nonconforming at 65,470 square feet. The Applicant will reduce the net reduction of nonconforming lot coverage.

3. *The scale, bulk and general appearance of the use will be such that the use will be compatible with adjacent land uses and with existing and potential uses in its general area and will not be detrimental to the economic value of neighboring property.*

The hotel has continuously been in operation on the property for over 120 years. The Board finds that the proposed modifications are an enhancement to the property and reduce stormwater runoff on the property. The property is well maintained and has co-existed with neighboring residential and agricultural uses without issue. The property is adequately screened from neighboring properties. The additional cottages are small in size and comply with zoning setback requirements in a manner that is unobtrusive to the neighborhood.

4. *The use will not constitute a nuisance to other properties and will not have significant, adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances.*

The expansion of the hotel to accommodate three additional guest rooms will not result in additional trash, odors, noise, glare, or vibration. The Applicant eliminated 20 rooms previously and will eliminate another room on the property to accommodate an elevator. The cottages will be placed so that they are adequately screened from adjacent property owners. Therefore, the Board finds that the addition of the cottages will not result in a nuisance to other properties.

5. *The use will not have a significant adverse impact on public facilities or services, including roads, schools, water and sewer facilities, police and fire protection or other public facilities or services.*

The addition of the cottages will not result in an adverse impact on public facilities or services. The cottages will be connected to existing public sewer with adequate capacity. Water is provided by on-site wells. The addition of the cottages will not have any significant impact on public roads, schools, or police protection. The Applicant provided a letter from the St. Michael's Fire Department indicating that the addition of cottages will not impact fire protection.

6. *The use will not have a significant adverse effect upon marine, pedestrian or vehicular traffic.*

The Board finds that the addition of three cottages on the property will not have any significant adverse effect upon marine, pedestrian or vehicular traffic. The Applicant provided expert testimony indicating that there will be no significant effect on pedestrian or vehicular traffic. The modifications will not impact marine traffic.

7. *The use will not produce traffic volumes which would exceed the capacity of public or private roads in the area or elsewhere in the County, based on the road classifications established in Chapter 134, the Talbot County Roads and Bridges Ordinance, and other applicable standards for road capacity.*

The Maryland State Highway Administration provided no comment on the Application indicating that modifications will not impact the capacity of Maryland Route 329.

8. *Any vehicle access to proposed off-street parking areas and drive-in facilities will be designed to minimize conflicts between vehicular, bicycle and pedestrian traffic and to minimize impacts on adjacent properties and on public or private roads. In addition, any resulting commercial and truck traffic should not use a residential street nor create a hazard to a developed residential area.*

The Board finds that vehicle access will remain unchanged with the modifications to the property. Commercial / truck traffic to the property will continue to utilize Maryland Route 329. The addition of the three cottages will not impact off-street parking areas and drive-in facilities.

9. *The use will not significantly adversely affect wildlife with respect to the site's vegetation, water resources, or its resources for supplying food, water, cover, habitat, nesting areas, or other needs of wildlife.*

The Property is located in the Critical Area. There are environmentally sensitive features on the site such as hydric soils and Non-Tidal Wetlands. The Applicant has designed the additions so that they are away from environmentally sensitive areas and not located within the Critical Area Buffer. The Applicant will be reducing impervious surfaces on the property and will improve stormwater runoff on the property. The placement of one cottage was altered to accommodate a historically significant oak tree.

10. The use will not significantly adversely affect adjacent existing agricultural uses.

The Board has not obtained any evidence that the property will adversely affect adjacent existing agricultural uses and finds that there will be little to no effect on adjacent existing agricultural uses.

EXHIBITS

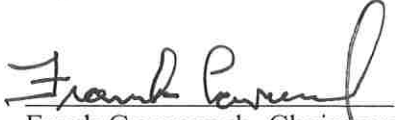
The Applicant submitted the following exhibits on the record during the hearing:


1. Historical postcard photos of the property.
2. Site drawing.
3. Letter from St. Michaels Fire Department.

Mr. Krebeck moved that the Applicant's request for modification of a nonconforming use be granted, subject to staff conditions, and the motion was seconded by Mr. Shortall. Based upon the foregoing, the Board finds, by a unanimous vote that the Applicant's request is granted subject to the following staff conditions:

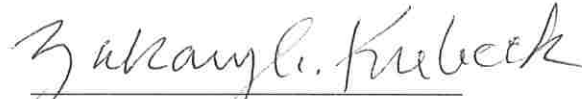
1. The Applicant shall obtain Minor Site Plan approval from the Department of Planning and Zoning.
2. The Applicant shall make an application to the Office of Permits and Inspections, for an after the fact permit to remedy an active violation prior to submittal of any permits being submitted for improvements related to this Application.
3. The Applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
4. The Applicants shall commence construction of the proposed improvements within eighteen (18) months of the date of this Decision set forth below.

IT IS THEREFORE, this 7th day of November, 2022, **ORDERED** that the Applicant's requests for modification of a nonconforming use is GRANTED.


Frank Cavanaugh, Chairman


Louis Dorsey, Jr., Vice-Chairman


Paul Shortall, Jr.


Zakary A. Krebeck


Jeff Adelman